

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Amarylis Rivera	Team: Team # 6	CCRB Case #: 201400940	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 01/24/2014 11:02 PM	Location of Incident: § 87(2)(b)	Precinct: 67	18 Mo. SOL 7/24/2015	EO SOL 7/24/2015	
Date/Time CV Reported Fri, 01/24/2014 11:17 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 01/30/2014 2:07 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Sean Claxton	01500	943092	067 PCT
2. POM James Giamboi	05153	947957	067 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Sean Claxton	Abuse: Sgt. Sean Claxton stopped § 87(2)(b)	§ 87(2)(b)
B.SGT Sean Claxton	Abuse: Sgt. Sean Claxton frisked § 87(2)(b)	§ 87(2)(b)
C.SGT Sean Claxton	Abuse: Sgt. Sean Claxton searched § 87(2)(b)	§ 87(2)(b)
D.POM James Giamboi	Abuse: PO James Giamboi searched § 87(2)(b)	§ 87(2)(b)
E.SGT Sean Claxton	Abuse: Sgt. Sean Claxton damaged § 87(2)(b)'s property.	§ 87(2)(b)
F.SGT Sean Claxton	Abuse: Sgt. Sean Claxton refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)
G.POM James Giamboi	Abuse: PO James Giamboi refused to provide his shield number to § 87(2)(b)	§ 87(2)(b)

Case Summary

On January 24, 2014, § 87(2)(b) filed this complaint with IAB via telephone (*encl. 4A-C*). The complaint was received by the CCRB via IAB log number 14-3291 on January 30, 2014 (*encl. 5A-B*). On January 24, 2014, § 87(2)(b) was approached by two plainclothes officers in the lobby of § 87(2)(b) in Brooklyn. The following allegations resulted:

- **Allegation A- Abuse of Authority: Sgt. Sean Claxton stopped § 87(2)(b)**
- **Allegation B- Abuse of Authority: Sgt. Sean Claxton frisked § 87(2)(b)**
§ 87(2)(g)
- **Allegation C- Abuse of Authority: Sgt. Sean Claxton searched § 87(2)(b)**
- **Allegation D- Abuse of Authority: PO James Giamboi searched § 87(2)(b)**
§ 87(2)(g)
- **Allegation E- Abuse of Authority: Sgt. Sean Claxton damaged § 87(2)(b)'s property.**
§ 87(2)(g)
- **Allegation F- Abuse of Authority: Sgt. Sean Claxton refused to provide his shield number to § 87(2)(b)**
- **Allegation G- Abuse of Authority: PO James Giamboi refused to provide his shield number to § 87(2)(b)**
§ 87(2)(g)

On February 24, 2014 and March 5, 2014, mediation was offered to § 87(2)(b) but he requested to proceed with an investigation, § 87(2)(b)

Results of Investigation

Civilian Statements

Complainant/ Victim: § 87(2)(b)

- *At the time of the incident, § 87(2)(b) was a § 87(2)(b)-old black male. He stands at 5'7", weighs 150 pounds, and has black hair and brown eyes.* § 87(2)(b)

§ 87(2)(b)'s IAB Intake Recording

On January 24, 2014, § 87(2)(b) filed this complaint with IAB via telephone (*encl. 4A-C and 6A*).

Prior to speaking to the IAB intake officer, § 87(2)(b) is heard in the background, speaking to one or more individual(s). § 87(2)(b) informed them not to leave or drive away. He added that if they drove away they would find themselves in trouble. He then informed them that he did not commit a "fucking" crime, and requested to know what was wrong with them. No response is audible.

Shortly after, § 87(2)(b) informed the IAB intake officer of what occurred fifteen minutes prior. He stated that he was approached by two plainclothes officers, as he was seated in the hallway of § 87(2)(b). The officers had him with his hands against the window and had “searched” him. § 87(2)(b) requested that the officers identify themselves, and provide their badge numbers, but the officers did not comply with his requests. He provided license plate number § 87(2)(e), § 87(2)(f) for the black unmarked vehicle the officers were driving.

CCRB Testimony:

On February 24, 2014, § 87(2)(b) provided a telephone statement (*encl. 6B*), and on March 5, 2014, he provided a verified statement (*encl. 6C-I*). On May 14, 2014 and August 27, 2014, he provided additional telephone statements (*encl. 6J-K*). § 87(2)(g)

On January 24, 2014, at approximately 11:02 p.m., § 87(2)(b) was in the hallway of § 87(2)(b) in Brooklyn, a privately owned building, not a part of NYCHA. § 87(2)(b) was seated on a board located on top of a radiator, facing away from the front building entrance. He was smoking a cigarette and listening to music through his Coby (headband) headphones, which were connected to a white three-inch MP4 player. § 87(2)(b) was wearing a black North Face jacket, a grey hoodie, blue jeans and yellow Timberland boots.

§ 87(2)(b) looked up and observed two plainclothes officers, identified through the investigation as Sgt. Sean Claxton and PO James Giamboi, of the 67th Precinct, standing in front of him. He did not see them enter the building. § 87(2)(b) did not believe the men to be officers, until he noticed that they were wearing bullet proof vests.

Sgt. Claxton asked § 87(2)(b) what he was doing at the location, and accused him of trespassing. § 87(2)(b) responded that he lived in the building, and that his apartment was located around the curve towards the left side of the hallway. § 87(2)(b) spoke with his arms and pointed in the direction of his apartment.

§ 87(2)(b) was leaning against the window located behind the heater. Sgt. Claxton instructed § 87(2)(b) to stand, and stated that he wanted to verify that § 87(2)(b) did not have any drugs or weapons on him. § 87(2)(b) requested permission to go to his apartment to obtain his identification to prove that he is a resident of the building, but Sgt. Claxton denied his request.

PO Giamboi then grabbed § 87(2)(b)'s right wrist and Sgt. Claxton grabbed his left wrist, each with one hand. § 87(2)(b) had no other option, but to stand. Sgt. Claxton and PO Giamboi then frisked and searched § 87(2)(b) with their free hands. Simultaneously, they patted down § 87(2)(b)'s upper body, back, waist, and legs. They also entered § 87(2)(b)'s front and back pants pockets, jacket pockets, and front sweater pocket; PO Giamboi entered the pockets located on § 87(2)(b)'s right and Sgt. Claxton entered the pockets located on § 87(2)(b)'s left. § 87(2)(b) had a few items in his pockets which were removed, but immediately placed back. § 87(2)(b) had his apartment keys and an extra cigarette located inside of his front sweater pocket, a Metro Card wallet in his right back pants pocket, and an MP4 player located inside his right jacket pocket.

While § 87(2)(b) was being frisked, Sgt. Claxton grabbed § 87(2)(b)'s headphones, which were located on his head, ripped them off and threw them onto the ground, causing the headphone to break in half. § 87(2)(b) told Sgt. Claxton that he had broken his headphones, and Sgt. Claxton then placed § 87(2)(b) back first, against a wall located to the right of the radiator.

§ 87(2)(b) wanted the officers to release his wrists, so he moved his forearms from side to side, in an attempt to free himself from the officers' grips. Sgt. Claxton told § 87(2)(b) to relax, because he was just doing his job. Sgt. Claxton then informed § 87(2)(b) that there were many shootings in the area and many individuals had been killed as a result.

After the officers finished, § 87(2)(b) asked Sgt. Claxton if he could go back to his apartment to get a pen and paper to write down his badge number. Sgt. Claxton responded, "Go ahead," and § 87(2)(b) quickly went to his apartment, located fifteen feet away. As he removed his keys to open the door; he had heard Sgt. Claxton and PO Giamboi walking away. § 87(2)(b) opened his apartment door, quickly retrieved a piece of paper, a pen, and his cell phone. § 87(2)(b) walked out of his apartment and out of § 87(2)(b). As he walked, he called 911 to report what had just happened.

Sgt. Claxton and PO Giamboi were already inside of a black unmarked car, possibly an Impala or a Malibu. They almost drove off, but § 87(2)(b) approached the unmarked car, and requested the officers' names and badge numbers and informed them that he was speaking with 911 on his cell phone. Sgt. Claxton, the front seat passenger, then requested § 87(2)(b)'s identification, and § 87(2)(b) § 87(2)(b) complied and provided his identification card to PO Giamboi. Sgt. Claxton or PO Giamboi wrote down § 87(2)(b)'s information. Sgt. Claxton then informed § 87(2)(b) that they were writing his information just to have record that they stopped him. The officers returned his identification card and drove off. § 87(2)(b) observed the unmarked vehicle's license plate number and provided the license plate number to the 911 operator, who was still on the phone.

§ 87(2)(b) was unable to observe the officers' information, because their badges, which were worn on a chain, were turned backwards and clipped to their chests. At the time of the incident, § 87(2)(b)'s next door neighbor walked by and observed § 87(2)(b) interacting with the police officers inside of the lobby. However, he did not provide her information because he was not sure if she would want to participate with the investigation.

On August 27, 2014, § 87(2)(b) stated that there was no witness inside of the lobby, but rather outside of § 87(2)(b). He added that the witness was not female, but a male. § 87(2)(b) was asked to obtain the witness name and contact information for the investigation, but failed to do so.

§ 87(2)(b) did not provide the investigation with any photographs of the broken headphones or any receipt indicating the cost of replacing the headphones.

Attempts to Identify and Contact Witness

§ 87(2)(b) identified an unknown female neighbor as a witness to the encounter between him, PO Giamboi and Sgt. Claxton inside the lobby of § 87(2)(b). However, he was uncertain if she wanted to be involved.

On August 28, 2014, emails were sent to two potential email addresses belonging to § 87(2)(b) regarding the witness information, but the email addresses were deemed undeliverable. On August 29, 2014, a phone call was placed to § 87(2)(b) and a message was left. A letter was also sent on the same date, but § 87(2)(b) did not respond to either attempt, and the letter was not returned by the United States Postal Service (19F-G).

On October 17, 2014, a Lexis Nexis search and Whitepages.com search was conducted to identify and locate § 87(2)(b)'s neighbors and found a few apartments adjacent to § 87(2)(b)'s apartment. On October 17, 2014 and October 22, 2014, letters were sent to each apartment via mail. The letters have not been returned by the United States Postal Services, nor have there been any responses.

§ 87(2)(b) Surveillance Footage Retrieval

A message was left the building management office for § 87(2)(b) on March 17, 2014 regarding possible video footage. No response was received. On August 28, 2014, the undersigned contacted and spoke with an individual named '§ 87(2)(b)' at the building management office. He informed the undersigned that surveillance footage is only stored for a month. He confirmed the above information with his manager (*encl. 19F-G*).

NYPD Statements:

Subject Officer: PO JAMES GIAMBOI

- *At the time of the incident, PO Giamboi was a § 87(2)(b)-old white male. He stands 5'10" tall, weighs 200 pounds, and has black hair and brown eyes.*
- *On January 24, 2014, PO Giamboi worked from 7:30 p.m. to 4:05 a.m. He was assigned to the SET Unit. He was dressed in plainclothes and assigned to a black Impala, RMP# 781. He worked with Sgt. Sean Claxton. PO Giamboi was the operator and Sgt. Claxton was the front passenger.*

Memo Book

At 11:00 p.m., a stop was conducted inside of § 87(2)(b). At 11:05 p.m., a Stop, Question, and Frisk report was completed (violation: burglary) for § 87(2)(b) § 87(2)(b) § 87(2)(b) DOB: § 87(2)(b) (*encl. 7A-D*).

CCRB Testimony

On July 23, 2014, PO James Giamboi was interviewed at the CCRB (*encl. 8A-C*).

On January 24, 2014, § 87(2)(e)

§ 87(2)(b) PO Giamboi and Sgt. Claxton drove around Martense Street, multiple times, during their tour.

At approximately 11:00 p.m., PO Giamboi drove past § 87(2)(b) in Brooklyn, § 87(2)(e) PO Giamboi observed § 87(2)(b) peering into the building through the right front window of the lobby from the outside. It caught his attention, but appeared ambiguous, and could potentially be nothing or a possible robbery/burglary. PO Giamboi drove off, and returned to Martense Street, fifteen to twenty minutes after his initial observation of § 87(2)(b).

Upon his return, PO Giamboi observed § 87(2)(b) again, but this time he was inside the lobby of § 87(2)(b) walking slowly back and forth. § 87(2)(b) was listening to music on his headphones. PO Giamboi parked the unmarked vehicle, then he and Sgt. Claxton entered § 87(2)(b) PO Giamboi was not asked if he had a conversation with Sgt. Claxton prior to entering § 87(2)(b) or what he had suspected § 87(2)(b) of doing.

Usually while conducting stops one officer would assume the role of the speaker as the other is quiet. However, PO Giamboi could not recall if he or Sgt. Claxton assumed the role of the speaker. He did recall that since § 87(2)(b) was listening to music they had to yell at him three to four times to get his attention.

PO Giamboi's shield was out and they identified themselves as police officers. Then either he or

Sgt. Claxton asked § 87(2)(b) if he lived in the building, what he was doing outside, why he peeked through the window, and requested his identification. § 87(2)(b) seemingly angry at the presence of the officers, and yelled his responses to the officers. However, PO Giamboi could not recall what § 87(2)(b) said, except that he lived in the building and did not have any identification on him. PO Giamboi informed § 87(2)(b) that a particular group was involved in many robberies and burglaries in the area and § 87(2)(b) is one of the buildings associated with the above.

PO Giamboi added that when § 87(2)(b) spoke during the encounter, he used his hands, which were raised at shoulder level. At one point, § 87(2)(b)'s hands moved closer to PO Giamboi's and Sgt. Claxton's faces. § 87(2)(b) stood approximately three feet away from PO Giamboi and Sgt. Claxton, who were standing side by side. PO Giamboi grabbed onto § 87(2)(b)'s wrist and guided it down towards § 87(2)(b)'s side. PO Giamboi then told § 87(2)(b) to keep his hands away from his (PO Giamboi's) face. § 87(2)(b) complied and kept his hands towards his side, but continued to yell. PO Giamboi could not recall if Sgt. Claxton also grabbed § 87(2)(b)'s wrist, but stated that the grab was the only physical contact between himself and § 87(2)(b). He could not recall if Sgt. Claxton made physical contact with § 87(2)(b).

Shortly after, an individual walked past them and confirmed that § 87(2)(b) lived in the building. As a result, PO Giamboi and Sgt. Claxton did not need to pursue the matter any further. § 87(2)(b) then verbally provided PO Giamboi with his name, address, and date of birth.

As PO Giamboi and Sgt. Claxton were leaving, § 87(2)(b) requested their badge numbers. PO Giamboi presented his badge to § 87(2)(b) and verbally stated his shield number, because his name is usually difficult to spell and he makes an effort to provide his shield number when it is requested. § 87(2)(b) yelled at PO Giamboi, because his shield was backwards. PO Giamboi turned his shield around and then verbally stated his shield number, again. § 87(2)(b) requested to use PO Giamboi's pen, but PO Giamboi denied his request. § 87(2)(b) then turned around and went further into the building. PO Giamboi stated that he assumed the requests for badge numbers was directed for both himself and Sgt. Claxton. He added that Sgt. Claxton was asked before him, but could not recall hearing anything. PO Giamboi and Sgt. Claxton returned and entered their unmarked car.

§ 87(2)(b) then exited § 87(2)(b) with his phone in hand. After, it appeared to PO Giamboi that § 87(2)(b) was taking photographs of the license plate of the unmarked car. § 87(2)(b) then walked to the front of the unmarked car closer to the front passenger side, and screamed. The windows of the unmarked car were rolled up, but PO Giamboi later stated that they were rolled down to hear what § 87(2)(b) stated. However, PO Giamboi was not asked about what he had heard. § 87(2)(b) prevented them from moving, but PO Giamboi made a hard left and drove away.

At no point, was § 87(2)(b) asked if he had any drugs or weapons. PO Giamboi added that an individual would be asked if they are in possession of weapons if there is a suspicion that the individual has a weapon or reaches to an area of their body, suggesting that they have a weapon. § 87(2)(b) made no such movement and PO Giamboi did not suspect § 87(2)(b) of having any weapons.

PO Giamboi and Sgt. Claxton did not frisk and/or search § 87(2)(b). In addition, § 87(2)(b) did not provide them a reason that would warrant a frisk and/or search. PO Claxton stated that Sgt. Claxton did not touch or throw § 87(2)(b)'s headphones which were located around his neck, but then PO Giamboi stated that he could not recall if § 87(2)(b) completely removed his headphones or had them resting on his neck, and could not recall if Sgt. Claxton touched/grabbed, removed and threw § 87(2)(b)'s headphones.

PO Giamboi completed a Stop, Question and Frisk report for this incident, but was informed by the Crime Analysis Unit that there was none on file, when he had requested to see the report the day before his CCRB interview. The investigator informed him that the CCRB was also provided the same response. PO Giamboi provided the investigator with the following stop, question and frisk report procedure. PO Giamboi completed the report, provided the report to his supervisor, Sgt. Claxton, who then reviewed and signed the report. The report was then placed in a bin at the stationhouse, and the administrative staff enters the report into the system and files it away. After submitting the report to his supervisor, PO Giamboi did not see the report again.

Subject Officer: SGT. SEAN CLAXTON

- *At the time of the incident, Sgt. Claxton was a § 87(2)(b)-old black male. He stands 5'8" tall, weighs 180 pounds, and has black hair and brown eyes.*
- *On January 24, 2014, Sgt. Claxton was the SET Unit Supervisor and worked from 7:20 p.m. to 4:17 a.m. Sgt. Claxton was dressed in plainclothes and worked with PO James Giamboi. They were assigned to a black unmarked car, RMP# 277. Sgt. Claxton was the front seat passenger and PO Giamboi was the operator.*

Memo Book

At 11:00 p.m., a male was stopped inside the lobby of § 87(2)(b) he was suspected of possible burglary, robbery, or gang activity. The male was very combative, flailed his arms and was irritated for being stopped. A neighbor verified that the male lived at the above address. The male had no immediate identification. A stop, question, and frisk report was prepared by PO Giamboi (encl. 9A-B).

CCRB Testimony

On July 30, 2014, Sgt. Sean Claxton was interviewed at the CCRB (encl. 10A-C).

On January 24, 2014, at approximately 11:00 p.m., Sgt. Claxton and PO Giamboi drove past § 87(2)(b) in Brooklyn, § 87(2)(e). As they drove past the area, Sgt. Claxton quickly observed § 87(2)(b) peer through the window and walk back and forth inside of the lobby of the aforementioned building. § 87(2)(e). Additionally, § 87(2)(b)'s behavior appeared to Sgt. Claxton as if he was a look out.

Sgt. Claxton told PO Giamboi to pull over because he wanted to see what § 87(2)(b) was up to. They parked the unmarked car slightly past § 87(2)(b) exited the unmarked car, and approached § 87(2)(b) inside of the building; however, he was not asked how they had entered the building. § 87(2)(b) had his headphones on and removed them from his ears to hear the officers. The headphone rested on his neck. In addition, a strong scent of alcohol was emanating from § 87(2)(b).

Sgt. Claxton asked § 87(2)(b) if he lived in the building, what he was doing, and to provide them with identification. § 87(2)(b) slurring his speech, screamed at the officers that he lived in the building, and that they had no right to approach him. § 87(2)(b) had trouble balancing and spoke with his hands while moving his arms. § 87(2)(b)'s palm was open and facing towards the side/inward, his fingers were extended and together. His elbow was bent and he moved his hand in an up and down motion at chest level. § 87(2)(b)'s hands were inches away from Sgt. Claxton and PO Giamboi.

§ 87(2)(b) informed Sgt. Claxton and PO Giamboi that he lived in the building and that he did not have his identification and did not need to present his identification. Sgt. Claxton informed § 87(2)(b) that they did not have any proof that § 87(2)(b) lived in the building. As § 87(2)(b) yelled and continued speaking with his hands, Sgt. Claxton shielded his face from § 87(2)(b)'s hand, by placing his hand in front of his (Sgt. Claxton's) face with an open palm facing outward, but PO Claxton did not grab § 87(2)(b)'s hand.

Sgt. Claxton feared for his safety and the safety of his partner, due to § 87(2)(b)'s yelling, hand movement close to Sgt. Claxton's and PO Giamboi's faces, time of night, the building's high gang activity, and his uncertainty if § 87(2)(b) was a gang member. For these reasons, he deemed a frisk necessary. He asked § 87(2)(b) if he had any weapons on him, because the gang members usually possess weapons, though not firearms, on them.

Sgt. Claxton patted § 87(2)(b)'s pockets and waistband, but he did not enter any of the pockets. Sgt. Claxton was not asked if he had felt anything, but he did indicate that § 87(2)(b) did not have any weapons on him. Sgt. Claxton was unsure if PO Giamboi also frisked § 87(2)(b). After he conducted the frisk, a neighbor walked past them and he asked them if he knew § 87(2)(b). The neighbor confirmed that § 87(2)(b) lived in the building, and § 87(2)(b) then verbally provided PO Giamboi with his information. They wished § 87(2)(b) a good night, left the building, entered their unmarked car and drove off. § 87(2)(b) did not exit building after they had entered the unmarked car.

Sgt. Claxton did not take or throw § 87(2)(b)'s headphones, causing them to break. Sgt. Claxton could not recall if § 87(2)(b) requested his name and shield number, but stated that his shield was out, and if someone were to request his name and shield, he would have provided it.

Sgt. Claxton stated that PO Giamboi completed a stop, question, and frisk report for this encounter. He was informed that the investigation was advised by the 67th Precinct that there was no stop, question, and frisk report on file for this incident. Sgt. Claxton clarified that after PO Giamboi provided him the report, he reviewed and signed the report and placed it in a box for submission. A Crime Analysis officer would enter the report into the system, but he did not know what happened to the report after the above procedure was completed.

NYPD Documents

67th Precinct Computerized and Handwritten Stop, Question, and Frisk Report/Index

There were negative results for the computerized and handwritten stop, question, and frisk report. In addition, the computerized stop, question, and frisk index reveal no entries for the date, time, and location of the incident, nor any reports completed by PO Giamboi (*encl. 21E, 21G, and 21J*).

SPRINT/Radio Communication

There were no reports and/or radio communication reflecting this incident (*encl. 5A, 11A-J*).

Status of Civil Proceedings

- § 87(2)(b) has not filed a notice of claim with the City of New York as of October 17, 2014, with regard to the incident (*encl. 18A*).

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Civilians CCRB History

- § 87(2)(b) has filed the additional CCRB complaint (*encl. 2A*):
 - § 87(2)(b)
[REDACTED]
[REDACTED]
[REDACTED]

Subject Officers CCRB History

- Sgt. Sean Claxton has been a member of the service for seven years and there are no substantiated CCRB allegations against him (*encl. 1A*).
- PO James Giamboi has been a member of the service for five years and there are no substantiated CCRB allegations against him (*encl. 1B*).

Conclusion

Identification of Subject Officers

It is undisputed that Sgt. Claxton and PO Giamboi had an interaction with § 87(2)(b) § 87(2)(b) alleged that both officers stopped, frisked, searched him, and refused to provide him their names and shield numbers. Therefore, the allegations are pled against Sgt. Claxton and PO Giamboi accordingly. Finally, § 87(2)(b) alleged that the black male officer damaged his property; therefore, the allegation is being pleaded against Sgt. Claxton, the only black male of the two subject officers.

Allegations Not Pleaded

§ 87(2)(b) alleged that Sgt. Claxton and PO Giamboi grabbed and searched him simultaneously. Since, Sgt. Claxton was the supervising officer, the stop and frisk allegations will be pleaded against him and not against PO Giamboi.

Investigative Findings and Recommendations

Allegation A- Abuse of Authority: Sgt. Sean Claxton stopped § 87(2)(b)

Allegation B- Abuse of Authority: Sgt. Sean Claxton frisked § 87(2)(b)

It is undisputed that, at the point at which § 87(2)(b) was frisked, he was stopped and thereby no longer free to leave.

It is undisputed that § 87(2)(b) was in the lobby of § 87(2)(b) when he was approached by Sgt. Claxton and PO Giamboi. Sgt. Claxton asked § 87(2)(b) if he lived in the building, why was he in the lobby, and requested his identification. § 87(2)(b) responded that he lived in the building and that he did not have his identification on his person. § 87(2)(b) spoke with his hands during this conversation. At that point, Sgt. Claxton frisked § 87(2)(b) because he yelled, moved his hands in close proximity to the officers' faces, and because the building is a gang prone location. Neither Sgt. Claxton nor PO Giamboi made any direct observations suggesting that § 87(2)(b) might be in a possession of a weapon.

§ 87(2)(g)

In *People v. Debour*, 40N.Y.2d 210 (1976), an officer may perform a stop when he reasonably suspects that an individual has committed, is committing, or is about to commit a crime. Additionally, an officer is authorized to frisk an individual, if the officer reasonably suspects they are in danger of physical injury by virtue of the individual being armed (*encl. A-K*).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation C- Abuse of Authority: Sgt. Sean Claxton searched § 87(2)(b)

Allegation D- Abuse of Authority: PO James Giamboi searched § 87(2)(b)

Directly after being frisked by Sgt. Claxton and PO Giamboi, § 87(2)(b) alleged that they searched him by entering into the pockets of his pants, sweater, and jacket. They removed the items of said locations and returned them.

Sgt. Claxton and PO Giamboi denied entering any of § 87(2)(b)'s pockets. In this encounter, PO Giamboi stated that § 87(2)(b) was not suspected of possessing a weapon and made no movements indicative of possessing a weapon, thus a search of § 87(2)(b) was not necessary.

In addition, the only individual said to have walked by during the encounter was a neighbor in which § 87(2)(b) did not want to identify. However, the individual walked past the incident location at the conclusion of § 87(2)(b)'s encounter with the officers, § 87(2)(g)

§ 87(2)(g)

Allegation E- Abuse of Authority: Sgt. Sean Claxton damaged § 87(2)(b)'s property.

§ 87(2)(b) alleged that Sgt. Claxton grabbed and ripped his COBY headphones from him and threw them on the floor, causing them to break.

Sgt. Claxton and PO Giamboi confirmed that § 87(2)(b) was wearing his headphones, but denied that Sgt. Claxton grabbed, threw, and broke § 87(2)(b)'s headphone.

§ 87(2)(b) did not allege the property damage when he called 911. He did not provide any photographs documenting the damage nor did he present the investigation with any receipt documenting the replacement. In addition, there were no additional parties present to corroborate the allegation.

§ 87(2)(g)

Allegation F- Abuse of Authority: Sgt. Sean Claxton refused to provide his shield number to

§ 87(2)(b)

Allegation G- Abuse of Authority: PO James Giamboi refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) consistently alleged that he requested the officers' shield numbers, that he could not see the shield numbers because they were turned around, and at no point did either officer provide his shield number.

Sgt. Claxton testified that while he did not recall being asked for his shield number, his shield was out during the incident and he would have provided the information if requested. PO Giamboi testified not only that § 87(2)(b) requested both his and Sgt. Claxton's shield numbers, but that his (PO Giamboi's) shield was turned backward. PO Giamboi stated that he – though he could not speak to Sgt. Claxton's response - presented his shield to § 87(2)(b) and verbally read him his shield number, however he also confirmed that § 87(2)(b) expressed the need for a pen to record the officers' shield numbers.

NYPD Patrol Guide Procedure 203-09 (*encl. O*) states that an officer must clearly state or otherwise provide their rank, name, and shield number to anyone who makes the request and allow them ample time to note the information.

§ 87(2)(g)

§ 87(2)(g) [Redacted]
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§ 87(2)(g) [Redacted]
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Team: _____

Investigator: _____
Signature Print Date

Supervisor: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date

Reviewer: _____
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